

II. Present Situation:

In 2000, the Legislature authorized “in-person absentee voting” in the main and/or branch offices of the county supervisors of elections.¹ “In-person absentee voting” allows Florida voters to cast ballots prior to an election in essentially the same manner as on election day. The decision whether or not to provide “in-person absentee voting” in this matter is within the discretion of the county supervisor of elections. (See IV.D. Other Constitutional Issues, *below*)

“In-person absentee voting” was designed as a *limited* alternative to the cumbersome process of having an elector fill out a traditional absentee ballot in the supervisor’s office (multiple envelopes, signatures, and witnessing requirements). Allowing voters to deposit their voted ballots directly into a voting device for subsequent tabulation reduces the administrative burden on supervisors and their staff on election day, who previously had to “feed” the voted absentee ballots into tabulators by hand. In a large county, this process could be very time-consuming.

The concept of widespread “early voting” with numerous satellite voting locations operating prior to election day is a Texas product. It grew out of an “in-person absentee voting” process in the early 1960’s that allowed Texas supervisors to set-up a temporary absentee voting branch location in counties where the county seat was not the largest town in the county. This made it easier for the majority of voters to cast ballots without having to travel to the county seat.

During the 2002 Florida general election cycle, certain supervisors expanded Florida’s “in-person absentee voting” process to something more akin to “early voting,” authorizing so-called “early voting” locations in libraries and other public facilities. The Secretary of State and some supervisors aggressively marketed “early voting” as a way for voters to avoid the widely-reported election day problems experienced during the 2002 primary election. The overwhelming response to the “early voting” call found voters in some of the larger counties in South Florida waiting up to 2 hours to cast ballots, although this appears to have been the exception rather than the rule.

Despite the delays, “early voting” proved popular with the electorate and has emerged as one of the success stories of the 2002 elections. And while there are numerous arguments “for” and “against” early voting,² one thing is clear --- voters like the *convenience* and will likely be looking for improvements to the process in future elections.

III. Effect of Proposed Changes:

The committee substitute makes early voting mandatory, beginning on the 10th day before an election (8th day for a special election or special primary election) and concluding at 5 p.m. on the eve of the election. It requires notice of early voting in a newspaper of general circulation two times at least 14 days before the election. And, it prescribes the minimum requirements for the:

¹ Section 101.657(2), F.S.

² For a general discussion of some of the pros and cons of “early voting,” see Florida Senate, Committee on Ethics and Elections, *Strategies for Increasing Voter Participation in Florida*, p. 26-28 (October 1999) (available through the Florida Senate website at www.flsenate.gov).

- Total number of early voting locations (one for every 85,000 voters registered to vote in the election; at least one location in counties with less than 85,000 registered voters); and,
- Hours of operation for early voting locations (9 a.m.-5 p.m., Monday - Friday; plus, a total of 10 hours on the weekend, at the supervisor's discretion).

Early voting locations must otherwise meet the requirements for polling places under the election code, and must be housed in public buildings owned by the state, county, or municipality. The selection of early voting locations must be designed to afford all voters in the county the same opportunity to cast an early ballot.

The committee substitute also requires the Department of State to promulgate rules governing the selection and security of early voting locations, along with the security of ballots, tabulating equipment, and other voting materials at such locations.

The committee substitute takes effect January 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

There is some question as to whether Florida's current permissive system of early voting might violate the Equal Protection Clause of the 14th amendment to the U.S. Constitution, since voters in some Florida counties may have an opportunity to cast an early ballot while others participating in the same election may not be afforded that opportunity.³ Making early voting mandatory and prescribing uniform, minimum standards for the number, location, and hours of operation of early voting facilities should redress many of these concerns.

³ The U.S. Supreme Court acknowledged in its landmark decision resolving the 2000 U.S. Presidential election contest that "the problem of equal protection in election processes generally presents many complexities." Bush v. Gore, 121 S.Ct. 525, 532 (2000).

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Widespread “early voting” may increase the overall costs of elections by requiring campaigns to advertise for a longer period of time leading up to election day. Campaign advertising historically peaks in the last few days before an election --- the so-called “last-minute” media blitz. Extending the voting period out to 10 days may force campaigns to aggressively compete for votes throughout the *entire* voting period, which may mean having to raise more money in campaign contributions.

C. Government Sector Impact:

Widespread “early voting” will likely increase the overall costs of elections, although some reports suggest there may be a reduced *cost-per-vote* if turnout increases. Additional manpower, equipment, and security precautions must be adopted to successfully implement an “early voting” campaign.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
